

**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

SABAS ORTIZ MOJARRO,

Plaintiff,

v.

WILLIAM BARR, et al.,

Defendants.

Case No. 1:20-cv-00126-DAD-SAB

ORDER DISCHARGING ORDER TO  
SHOW CAUSE AND DIRECTING CLERK  
OF COURT TO CLOSE CASE AND  
ADJUST DOCKET TO REFLECT  
VOLUNTARY DISMISSAL

(ECF Nos. 12, 13, 14)

Plaintiff Sabas Ortiz Mojarro filed complaint in this action seeking review of his Naturalization Application by the United States Citizenship and Immigration Services. On April 8, 2020, an order was filed requiring Plaintiff to file either proof of service or notice of the status of service on the defendants within five days. When no response was filed, an order was filed on April 14, 2020 requiring Plaintiff to show cause why sanctions should not issue for the failure to comply with the April 8, 2020 order. On April 15, 2020, a response to the order to show cause and a notice of voluntary dismissal were filed.

The Court has reviewed Plaintiff's response to the order to show cause and it shall be discharged.

"[U]nder Rule 41(a)(1)(A)(i), 'a plaintiff has an absolute right to voluntarily dismiss his action prior to service by the defendant of an answer or a motion for summary judgment.' " Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999)

(quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). The Ninth Circuit has held that Rule 41(a) allows a plaintiff to dismiss without a court order any defendant who has yet to serve an answer or motion for summary judgment. Pedrina v. Chun, 987 F.2d 608, 609 (9th Cir. 1993). “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required, the parties are left as though no action had been brought, the defendant can’t complain, and the district court lacks jurisdiction to do anything about it.” Commercial Space Mgmt. Co., Inc., 193 F.3d at 1078. In this action, no defendant has filed an answer or other responsive pleading.

Accordingly, IT IS HEREBY ORDERED THAT:

1. The order to show cause, filed April 14, 2020 is DISCHARGED; and
2. The Clerk of the Court is DIRECTED to CLOSE the file in this case and adjust the docket to reflect voluntary dismissal of this action pursuant to Rule 41(a).

IT IS SO ORDERED.

Dated: April 16, 2020

  
UNITED STATES MAGISTRATE JUDGE